

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

C. PAUL SANDIFUR, JR., THOMAS G.  
TURNER, ROBERT A. NESS, THOMAS R.  
MASTERS, DAN W. SANDY, DAVID R. SYRE,  
AND TRILLIUM CORPORTION,

Defendants.

Case No. C05-01631-JCC

**ORDER CREATING FAIR FUND AND  
APPOINTING TAX ADMINISTRATOR**

1 This matter is before the Court on plaintiff Securities and Exchange Commission's  
2 Motion to Create Fair Fund and Appoint Tax Administrator. (Dkt. No. 236.) No party filed  
3 an opposition to the motion. The Court, having reviewed the papers and pleadings on file,  
4 concludes that the motion should be granted. Accordingly:

5  
6 I.

7 IT IS HEREBY ORDERED THAT the funds held by the Clerk of the Court relating  
8 to this matter shall become part of a Fair Fund for the benefit of injured investors, pursuant  
9 to 15 U.S.C. § 7246(a). The Fair Fund shall consist of all disgorgement, pre-judgment  
10 interest and civil penalties paid into the Clerk pursuant to the Final Judgment Against  
11 Defendant C. Paul Sandifur, Jr. (Docket Item 224), totaling \$150,889.66, as well as all post-  
12 judgment interest earned on such payments.

13 II.

14 IT IS FURTHER ORDERED THAT Damasco & Associates, LLP is appointed as  
15 tax administrator to execute all income tax reporting requirements, including the preparation  
16 and filing of tax returns, with respect to the Fair Fund. Damasco & Associates shall be  
17 designated the administrator of the Fair Fund, pursuant to section 468B(g) of the Internal  
18 Revenue Code (IRC), 26 U.S.C. § 468B(g), and related regulations, and shall satisfy the  
19 administrative requirements imposed by those regulations, including but not limited to (a)  
20 obtaining a taxpayer identification number, (b) filing applicable federal, state, and local tax  
21 returns and paying taxes reported thereon out of the Fair Fund, and (c) satisfying any  
22 information, reporting, or withholding requirements imposed on distributions from the Fund.  
23 Damasco & Associates shall contemporaneously provide copies of all such filings to the  
24 Commission's counsel of record.

25 Damasco & Associates shall, at such times as it deems necessary to fulfill the tax  
26 obligations of the Fair Fund, request that the Commission's counsel of record file with the  
27 Court a motion, supported by Damasco & Associates' declaration of the amount of taxes due,  
28

1 to transfer funds from the Fund on deposit with the Court to pay any tax obligations of the Fair  
2 Fund.

3 Damasco & Associates shall be entitled to charge reasonable fees for tax compliance  
4 services and related expenses in accordance with its agreement with the Commission.  
5 Damasco & Associates shall, at such times as it deems appropriate, submit a declaration of  
6 fees and expenses to the Commission's counsel of record for submission to the Court for  
7 approval and for payment from the Fair Fund. No fees or expenses may be paid absent the  
8 Court's prior approval.

9 At least ten (10) days before any motion to pay fees and expenses is to be filed with  
10 the Court, Damasco & Associates shall provide the Commission counsel of record with a draft  
11 of the supporting declaration for review. If the Commission has any corrections or objections  
12 to the declaration, Damasco & Associates and the Commission's counsel shall attempt to  
13 resolve them on a consensual basis. If a consensual resolution is not reached, the Commission  
14 may submit with the motion any objections along with Damasco & Associates' response  
15 thereto.

III.

IT IS FURTHER ORDERED THAT the remaining balance of the Fair Fund, after payment of all taxes, penalties and fees described in Section II, above, shall be released by the Clerk to be distributed as part of the settlement fund authorized in *In re Metropolitan Securities Litigation*, which is pending in the U.S. District Court for the Eastern District of Washington (CV-04-0025-FVS).

IT IS SO ORDERED.

DATED this 30th day of December, 2010.

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE